

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

LARRY D. GLASER, *et al.*,

Plaintiffs,

v.

THE CITY OF SEATTLE, a municipal
corporation,

Defendant.

NO. 02-2-29165-1 SEA

CLASS ACTION

**NOTICE OF PROPOSED CLASS ACTION
SETTLEMENT**

TO: ALL CITY OF SEATTLE EMPLOYEES WHO WORKED HALF-TIME (916 HOURS IN A YEAR) OR MORE DURING THE PERIOD OCTOBER 1, 1996 TO APPROVAL DATE, AND WHO DID NOT RECEIVE THE SAME COMPENSATION, STATUS AND BENEFITS AS REGULAR EMPLOYEES, INCLUDING EMPLOYEES CALLED "TEMPORARY," "INTERMITTENT," "ON CALL," "BACKFILL," SEASONAL" OR SOME OTHER NON-REGULAR DESIGNATION.

This notice may affect your legal rights. Please read it carefully. The City of Seattle and the plaintiff class, through class counsel, have agreed to settle this class action lawsuit, brought in 2002. Plaintiffs claimed that they and a class of City of Seattle temporary and/or non-regular employees who worked half-time or more in a year were misclassified as temporary employees and improperly denied the benefits and civil service status of regular employees. Plaintiffs sought to change the City's employee classification practices as well as obtain monetary relief for the past treatment of and denial of benefits for themselves and the class. The City denies wrongdoing and is entering into this Agreement as a result of negotiation and compromise in order to bring this litigation to an end.

The Court will hold a hearing on March 6, 2006 to decide whether this Settlement Agreement should be approved. If you want to obtain relief under the Agreement, you do not need to take action immediately, but you will need to return a claim form (unless the City waives that requirement for current employees) by a date that will be set by the Court at the hearing. If you want to object to or provide a statement in support of the Settlement Agreement, you must file a written objection or statement with the Court by February 24, 2006, as further explained herein. If the Court approves the Settlement Agreement, you will be bound by the terms of the Agreement and any order entered by the Court dismissing this class action lawsuit.

The following discussions summarize some of the key aspects of the Settlement Agreement:

WHO IS A CLASS MEMBER

A "class member" is a City of Seattle employee who worked over one year (26 consecutive two-week pay periods) at least half-time (916 hours) or more, and did not receive some or all of the compensation, benefits and/or status received by the City's regular employees. A "class member" is also any employee who worked six months or more in a vacant regular position without receiving the same compensation, benefits, and

status as a regular employee in that position. The City called these class members “temporary,” “intermittent,” “backfill,” “on-call,” “seasonal,” or any non-regular designations. The Settlement Agreement and this Notice use the term “temporary” to describe these class members. The Settlement Agreement releases class member claims in exchange for the compensation and other relief provided in the Agreement.

CHANGES IN CLASSIFICATION PRACTICES, MONITORING, AND CREATION OF REGULAR POSITIONS

Classifications

The Settlement Agreement creates objective employee classifications based on the employee's actual work circumstances. Regular employees (full-time or half-time or more) perform work that is indefinite in duration and half-time or more and receive employee benefits for that reason. The Agreement establishes two categories of non-regular employees: 1) temporary employees that work in short-term assignments for less than one year, and 2) less-than-half-time employees that work in assignments of less than 1040 hours in a year. Temporary employees and less-than-half-time employees normally do not receive employee benefits unless they exceed 1040 hours in a year. Under the Agreement temporary and less-than-half-time employees may continue in those classifications and receive benefits while the City goes through the process of reviewing whether positions should be created to do the work of their assignments. The Agreement also allows the City to create an additional category of temporary employees assigned to term-limited assignments. “Term-limited” assignments have definite terms (one to three years) and are for work related to a specific project, grant or other specific non-routine work that is time limited. The employees in term-limited assignments receive the same compensation and fringe benefits as regular employees, but they are not in the civil service. The Settlement Agreement thus achieves the central goal of the litigation, an end to the practice of having long-term more than half-time temporary employees who do not receive employee benefits.

Monitoring and Compliance Review Process

The Agreement establishes a centralized monitoring and compliance review process for all temporary and less-than-half-time assignments and a detailed tracking system to assure compliance with the Settlement Agreement provisions. The tracking system will keep track of each temporary and less-than-half-time employee's work, pay period to pay period and on a rolling year basis, to assure that the employees are properly classified. As part of this ongoing compliance review, the Personnel Director will evaluate the employees' assignments to assure compliance with the Settlement Agreement and to determine whether the City should create new regular positions or term-limited assignments. If temporary and less-than-half-time assignments appear ongoing and more than half-time, the Settlement Agreement provides for a procedure for creating new regular positions or new term-limited assignments.

Consistent with collective bargaining rights, if an assignment is converted to a regular position, the employee who performed the work can apply for the position as an internal hire and that employee's experience will be given substantial weight in the hiring process. Temporary and less-than-half-time employees can also apply for regular positions as internal applicants, just as regular City employees may.

Appeal Procedure

The Settlement Agreement provides an appeal procedure for employees who believe they have been inappropriately classified. The initial appeal is to an internal appeals committee. If the employee is dissatisfied with the committee's decision, the employee may appeal to a City hearing examiner or, at the City's choice, a neutral arbitrator paid for by the City.

A temporary employee assigned to a vacant regular position on November 16, 2005 or thereafter who has worked or works a year or more in that vacant position shall be converted to a regular employee in that position and shall not serve a probationary period.

Creation of New Regular Jobs

While this lawsuit was pending the City instituted a centralized review of work performed by temporary employees (including those in vacant regular positions) and it began conducting body of work reviews to determine whether temporary assignments should be made into regular positions. As a result, from 2003-05 the

City created more than 160 new regular jobs for work that had been performed by temporary employees. Many temporary employees were hired for these newly created positions as well as existing regular positions. In addition, the City began providing insured benefits to temporary employees in certain circumstances. The Mayor requested and the City Council approved 63 new regular positions in 2006 to perform the work previously done by temporary employees. The City will continue analyzing whether more regular positions should be created in 2006 or thereafter for work that temporary employees perform.

Sick Leave for Eligible Class Members Who Are Now Regular City Employees

The Settlement Agreement provides that eligible class members who are regular City employees at the time that the Settlement Fund is distributed will also receive 25% of the sick leave that they would have earned if they had been regular employees at certain times during their temporary employment.

Additional Relief for Eligible Class Members Who Were Contractors and Became Regular City Employees

The Settlement Agreement provides that eligible class members identified as also working for the City as independent contractors will receive sick leave, adjusted vacation accrual rates, step pay increases (if applicable) and an opportunity to buy into the City's retirement system if they are regular employees at the time the settlement fund is distributed.

Provisions of Scannell Agreement Superseded and Replaced

The Settlement Agreement supersedes and replaces paragraphs 3 and 4 of the *Scannell* class action Settlement Agreement, but not the pension provisions.

\$11.5 MILLION PAYMENT FOR DENIAL OF PAST BENEFITS

The City has agreed to pay up to \$11.5 million dollars to compensate eligible class members who submit claim forms for damages due to their treatment as temporary workers.

ELIGIBILITY FOR PAYMENT FROM THE FUND

Eligible Class Member

You are eligible to receive payment from the Fund as provided in the Settlement Agreement if (a) you are a class member, (b) you were employed by the City (on the City payroll) at any time during the period October 1, 1996 through May 31, 2005 as a temporary employee, (c) you worked 1040 (half-time) or more regular hours in a year (during 26 consecutive two-week pay periods), (d) you worked 37 or more hours in at least one pay period in the next year, (e) you have at least six eligible pay periods (37 hours or more each pay period) after the "excluded pay periods" (defined below) are excluded, and (f) you file a timely claim form. If you were a Seattle Conservation Corps Trainee your first 19 months as a Trainee do not count toward eligibility.

Excluded Pay Periods

Under the Settlement Agreement the following time periods are excluded from payment from the Fund: (a) all class member hours prior to October 1, 1996, which is excluded because of the statute of limitations; (b) all periods when the class member worked as a student intern, work study student, summer youth, cooperative intern or other student designation; (c) all service from the date of and after the class member's retirement from the City; (d) all service when the class member worked at the City, but was not paid through the City's payroll system; (e) all service when the class member was paid through the City payroll system, and did not work at the City, but instead worked for another entity such as King County or the Seattle School District; (f) all service when the class member was a regular employee who received the compensation and benefits received by regular employees; (g) the first 1040 regular hours of the first year that a class member becomes an eligible class member; (h) each pay period the class member received City-paid insured benefits; and (i) each pay period the class member worked less than 37 regular hours. The first 19 months worked by work trainees at the Seattle Conservation Corps are also excluded.

Distributions for Qualified Claimants

Under the Agreement, upon Court approval of the Settlement Agreement, eligible class members (based on the City's payroll records) will be sent a claim form in the mail or given a claim form with their pay check if still employed. The City may opt to waive the claim form requirement for currently-employed eligible class members who may be paid their *pro rata* share through regular payroll when payments to class members occur. Eligible class members who receive claim forms must return the signed and completed claim forms in order to receive a payment. Upon return, claim forms will be reviewed to assure that the class members are "qualified claimants." Payment will be computed for each qualified claimant based on (a) the net insured benefits (the approximate pay period cost of City-paid insured benefits received by regular employees less the difference between the average amount of premium pay received by temporary employees and the paid leave they would have received as regular employees) and (b) interest. The value of net insured benefits each year from 1997 through May 31, 2005 is set out in the Settlement Agreement.

Distribution to each qualified claimant for net insured benefits will be based on the number of eligible pay periods times the value of the net insured benefits in that pay period. First, the value of net insured benefits will be calculated; then 12% annual simple interest on the total value of net insured benefits for each claimant will be calculated payable on December 31 of each succeeding year up to 2005.

The Fund Balance (see below) shall be distributed *pro rata* to qualified claimants as follows: The value of (a) net insured benefits and (b) prejudgment interest for each qualified claimant shall be separately calculated and the aggregated totals for all qualified claimants shall be totaled. This aggregated total is the denominator (Y) of a fraction for this formula. The numerator (X) shall be the Fund Balance. This fraction, the *pro rata* distribution fraction (X/Y) is the fraction upon which the *pro rata* distribution will be based. Each qualifying claimant will receive the same *pro rata* distribution for the two components (net insured benefits and interest) as provided in the Settlement Agreement.

AWARDS TO REPRESENTATIVE PLAINTIFFS AND ATTORNEY FEES

From the Fund four named plaintiffs defined in the Settlement Agreement shall each receive \$20,000 for their participation as class representatives. This participation includes, but is not limited to the commencement of this lawsuit, involvement in discovery matters (including answering interrogatories, producing personal records, and deposition testimony), preparation of declarations, attendance at Court proceedings, attendance at meetings and assisting class counsel. The City of Seattle will pay 30% of the Fund (\$3.45 million) to class counsel for attorney fees and litigation expenses.

FUND BALANCE

The Fund Balance, after deducting payments to the representative plaintiffs and class counsel, shall be distributed *pro rata* to the class as provided in the Settlement Agreement.

PAYMENT AMOUNTS NOT YET DETERMINABLE

It is not possible at this time to determine how much each class member will receive from the Fund because the amount cannot be determined until all claims are filed and until the number of eligible pay periods for each qualified claimant is calculated.

TOTAL VALUE OF SETTLEMENT

The value of the settlement is more than the \$11.5 million fund due to the City's changes in its personnel practices, the creation of new regular positions, the appointment of temporary employees to regular positions as regular employees, and the award of sick leave to class members who become regular employees.

THE AGREEMENT, NOT THIS SUMMARY, DETERMINES YOUR RIGHTS

The foregoing is a brief summary of the lengthy Settlement Agreement. **The actual agreement determines your rights, not this summary.** Copies of the complete agreement may be obtained from the City's website (seattle.gov), class counsel's website (bs-s.com) and from the City Clerk's Office, 600 4th Avenue, 3rd Floor, Seattle, WA 98124.

CLASS MEMBERS SHOULD INFORM CITY OF THEIR CURRENT ADDRESS

Class members should keep the City currently informed of their address, telephone number, and Social Security Number. An information form may be obtained at the City's website (seattle.gov.), or at class counsel's website, bs-s.com. The updated information should be provided to the City at the Personnel Office, Seattle Municipal Tower, 700 5th Ave., Suite 5500, P.O. Box 34028, Seattle, WA 98124.

FINAL APPROVAL PROCEDURE

The Settlement Agreement is a product of extensive negotiations and constitutes a compromise of disputed claims. Class counsel have concluded the terms and conditions of the settlement are fair and reasonable and in the best interest of the class. Class Counsel, Mayor Greg Nickels, and the Seattle City Attorney's Office have approved the Settlement Agreement and recommend it be approved by the Court, and Judge Douglas McBroom, the King County Superior Court Judge assigned to the case, has given tentative approval. The Settlement Agreement is subject to final approval by Judge McBroom. Some provisions of the Agreement must be enacted by ordinance and may be subjects of collective bargaining. By approval of the content of this notice, the Court expresses no final opinion on the merits of the case or the amount and terms of the settlement. A hearing will be held in Judge McBroom's courtroom, W965 King County Courthouse, Third and James, 516 Third Avenue, Seattle, WA 98104, at 9:00 a.m. on March 6, 2006, to decide whether the Court should approve the settlement. You do not have to attend this hearing to receive the above-described benefits of the settlement. Final approval of the settlement will make its terms binding upon you.

If any class member has an objection to the proposed Settlement Agreement, the objection must be made **in writing (DO NOT TELEPHONE THE ATTORNEYS)** prior to 4:00 p.m. on February 24, 2006, by filing the original objection with the Clerk of the Court and by delivering copies of any such objections to the attorneys for both sides. Any statements in support of the proposed settlement should be submitted in the same manner as objections. Class Counsel and the City may respond to any objections or statements in support. Any objections or statements in support must be submitted as set forth below.

File original objections or statements in support in writing, showing case name and number (*Glaser v. City of Seattle*, No. 02-2-29165-1 SEA) and include your name, address, and telephone number with:

**Clerk of King County Superior Court
6th Floor, King County Courthouse
516 Third Avenue
Seattle, WA 98104**

Provide copies of all objections to both the following offices by no later than 4:00 p.m. on February 24, 2006:

IF YOU DO NOT TIMELY FILE AN OBJECTION OR STATEMENT IN SUPPORT FOLLOWING THESE PROCEDURES, YOUR OBJECTION OR STATEMENT IN SUPPORT IS WAIVED.

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DATED: December 19, 2005.

/s/ DOUGLAS D. MCBROOM
King County Superior Court